

REMARKS

In the Office Action dated May 4, 2005, claims 1-89 are pending. Claims 2-9, 14-17, 21-49, 51-58, 63-66 and 70-89 are withdrawn from further consideration as drawn to non-elected subject matter. Claims 1, 10-13, 18-20, 50, 59-62 and 67-69 are under consideration and are rejected. The Examiner has also objected to the application for certain alleged informalities.

By way of a Response submitted on November 4, 2005, Applicants canceled claims 1-89 and added claims 90-95. Applicants also addressed all the rejections and objections set forth in the Office Action, with the exception of the §102(e) rejection based on Rosen et al. (US 2002/0055627). Applicants respectfully submit the following in response to the §102(e) rejection based on Rosen et al. (US 2002/0055627).

According to the Examiner, Rosen et al. disclose a nucleic acid that is 100% identical to instant SEQ ID NO: 5 (see SEQ ID NO: 140 of Rosen et al.). The Examiner concedes that Rosen et al. do not teach a nucleic acid molecule that is 100% identical with instant SEQ ID NO: 9. However, the Examiner contends that the molecule of Rosen et al. would be expected to hybridize under low stringency conditions, since there are substantial portions of SEQ ID NO: 9 that are identical with portions of the molecule of Rosen et al.

By way of the instant Amendment, Applicants have canceled claim 94, directed to a nucleic acid molecule that hybridizes to SEQ ID NO: 9. Applicants have amended claim 95 to depend from claim 90. The nucleic acid molecule of Claim 95, as presently recited, is specifically characterized by SEQ ID NO: 9. As admitted by the Examiner, Rosen et al. do not teach a nucleic acid molecule that is 100% identical with instant SEQ ID NO: 9. Therefore, the rejection insofar as claim 95 is concerned, is overcome.

Regarding claims 90-93, Applicants provide herewith a Declaration under 37 C.F.R. §131, signed by all inventors named in the present application. Applicants respectfully submit that the Declaration has established that the inventors isolated a nucleic acid molecule having a nucleotide sequence of SEQ ID NO: 5 in Australia prior to March 12, 1999, which is the earliest

priority date of Rosen et al. Therefore, Rosen et al. is not prior art under 35 U.S.C. §102(e) relative to the presently claimed invention.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



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Encls.: §131 Declaration (with Exhibit A attached thereto).